HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition No.2450 of 2001

PETITIONER — Satya Narayan Dubey S/o Rajnath Dubey, aged 50 years, Range Assistant (Deputy Ranger), Koylibeda, Antagarh Range, district - Bastar (CG)

Versus

RESPONDENTS

1. State of Chhattisgarh through the Secretary, Forest Department, Mantralaya, DK Bhawan, Raipur (CG)
2. Chief Conservator of Forest (Administration), Mantralaya, DK Bhawan, Raipur (CG)
3. Divisional forest Officer (General Division), Bhanupratappur, district - Bastar (CG)
4. State Administrative Tribunal through its Registrar, Raipur (CG)

Present : Shri Vinay Pandey, counsel for the petitioner.

Shri Sumesh Bajaj, Government Advocate for the State.

ORAL ORDER
(Passed on 9th March, 2007)

The following oral order of the Court was passed by

Vijay Kumar Shrivastava, J.

2) Petitioner entered into service of the State Government. After joining the service, his Service book was prepared by the department and his date of birth was recorded therein. In the year 1987 when the seniority list of forester was published, he came to know that his date

of birth has been incorrectly recorded as 01.11.1941 in his Service book. Therefore, he made an application dated 01.09.1988 for correction of the date of birth. According to the petitioner, his date of birth is 15.07.1944, as recorded in his High School Examination Certificate 1961. State Government vide letter dated 28.04.1993 refused to correct the date of birth in service book. Feeling aggrieved, petitioner filed an application before the Madhya Pradesh State Administrative Tribunal, Jabalpur (for short, "the Tribunal"). The Tribunal vide order dated 29.08.2000 passed in OA No.2527/1994 dismissed the petition. Hence this petition under article 226/227 of the Constitution.

3) Learned counsel for the petitioner contended that High School certificate issued by the Board contains his date of birth and till cancellation of the entry in the certificate, it is to be accepted as true. On the other hand, learned counsel for the State contended that Service book has been prepared in the presence and knowledge of the petitioner. Date of birth has been recorded on the basis of information and document furnished by petitioner himself and the entries regarding date of birth have been verified by the Gazetted Officer. Therefore, the date of birth recorded in the service book was not permissible to be corrected except in case of clerical error.

4) The order passed by the State Government dated 28.04.1993 is reproduced below :-

मध्यप्रदेश शासन वन विभाग

क्रमांक/एफ–3/11/93/10–1 भोपाल, दिनांक 28.04.93

प्रति,

प्रधान मुख्य वन संरक्षक,
म. प्र., भोपाल

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विषय :— श्री. एस.एन.दुबे, उप वन क्षेत्रपाल की सेवा पुस्तिका में अंकित जन्म तिथि में सुधार।

संदर्भ :— आपका पत्र कमांक /स्था./फ—3/01 दिनांक 11.1.91.

विषयान्तर्गत कृप्या संदर्भित पत्र का अवलोकन करें।

आदेशानुसार निवेदन है कि श्री एस. एन. दुबे, उप वन क्षेत्रपाल की सेवा पुस्तिका में अंकित जन्मतिथि 1.12.1941 में कोई परिवर्तन/संशोधन मान्य न किये जाने का निर्णय लिया गया है। हाई स्कूल परीक्षा का मूल प्रमाण पत्र संलग्न वापस भेजा जाता है।

सहपत्र :— उपरोक्तानुसार मूलतः

सही/—
अवर सचिव,
मध्यप्रदेश शासन,वन विभाग

युवन/26793

5) The impugned order passed by the Tribunal contains the following important facts which are extracted below for proper appreciation of the matter :

> "A perusal of copy of the service book, which has been filed as Annexure R-12 shows that applicant's date of birth has been recorded as 1st December, 1941 both in words and figures. This entry in the service book was seen on three occasions by the applicant. The last one being on 12.2.1980. Thus, the applicant cannot contend that he came to know about the date of birth recorded in the records as 1.12.1941 in the year 1987. The applicant having himself signed the relevant page of the service book on which the date of birth has been recorded cannot be now heard to say that his date of birth has been wrongly recorded. An entry once made in the service book can be changed only if there is a clerical error as per the Rules 84 contained in MP Financial Code. There is no clerical error in recording of the date of birth."

6) Undisputedly, the date of birth has been recorded in the Service book in accordance with rules and the petitioner after going through those entries had singed the relevant page at the time of the said entry. It is also evident that up to 12.02.1980, petitioner on three occasions had seen the said entry. The date of birth in Service book has been recorded as 01.12.1941. Therefore, he can not claim that he for the first time came to know the incorrect entry in 1987 when seniority list was published.

7) The service record and its entry can not be brushed aside merely on the submission of subsequent documents and objections. Clause 84 of Madhya Pradesh Financial Code 1984 reads as below:

> "शासन के अधीन किसी सेवा अथवा पद पर प्रत्येक नवनियुक्त व्यक्ति को भरती के समय अपनी जन्म तिथि की जहॉ तक हो ऐसे अभिलेखों के साथ जो उस तिथि की पुष्टी करते हों जैसे मेट्रीकुलेशन सर्टिफिकेट, म्युनिशिपल जन्म तिथि सर्टिफिकेट, आदि के साथ किश्चियन एरा में, घोषणा करना चाहिए। यदि वास्तविक जन्म तिथि ज्ञात न हो तो लगभग क्या तिथि है यह बताया जाना चाहिए। सेवा विवरण, सेवा पुस्तिका अथवा अन्य अभिलेख जो शासकीय सेवक के संबंध में रखें जाये उनमें वास्तविक जन्म तिथि अथवा नियम 85 के अंतर्गत निश्चित की गयी तिथि अंकित की जानी चाहिए। इस तरह एक बार अंकित की गई जन्म तिथि अंतिम रुप से नियत तिथि समझी जायेगी और केवल लिपिकीय त्रुटी के मामलो को छोड़कर ऐसी घोषणा में किसी भी प्रयोजन के लिए तदउपरान्त कोई संशोधन मान्य नही किया जावेगा।"

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8) From bare reading of the above Rule it is evident that the date of birth is recorded on the basis of documents relied on by the Government servant and those entries except clerical errors are not subject to correction, even otherwise in view of all the facts narrated above merely on the basis of school certificate filed after lapse of long, unexplained period, the entries in the service book can not be held to be incorrect.

9) The impugned order passed by the Tribunal does not suffer from any illegality or irregularity which may call for interference by stepping in article 226/227 of the Constitution by this Court. Petition dismissed. No costs.

Sd/-
Vijay Kumar Shrivastava
Judge

Sd/-
Chief Justice